

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

THERESA ALLEN,	:
INDIVIDUALLY, E.T.A. by	:
and through Theresa	:
Allen, and K.T.A. by and	:
through Theresa Allen	:
	:
Plaintiffs	:
	:
VS.	: CIVIL ACTION NO. 4:11-CV-04170
	:
TEXAS DEPARTMENT OF	:
FAMILY AND PROTECTIVE	:
SERVICES, HOWARD	:
BALDWIN, YOLANDA	:
ALPOUGH, ADRIAN HOMER,	:
STEPHANIE HAMMON, IVY	:
CHAMBERS, and UNKNOWN	:
COMMISSIONERS,	:
SUPERVISORS OR DIRECTORS	:
OF YOLANDA ALPOUGH,	:
ADRIAN HOMER AND	:
STEPHANIE HAMMON	:
	:
Defendants	:

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ORAL DEPOSITION OF  
YOLANDA ALPOUGH  
FEBRUARY 21, 2013  
VOLUME 1

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ORAL DEPOSITION OF YOLANDA ALPOUGH, produced as a witness at the instance of the Plaintiffs, and duly sworn, was taken in the above-styled and numbered cause on the 21st of February, 2013, from 12:55 p.m. to 4:28 p.m., before Beth L. Sheen, CSR in and for the State of Texas, reported by machine shorthand, at the offices of Children's Advocacy Center, 2500 Bolsover, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

A P P E A R A N C E S

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ALSO PRESENT:

Theresa Allen

1 we could possibly run into. It's not just for  
2 investigators. We have to take training as it relates to  
3 FBSS and sub care and the other parts of the Agency as  
4 well.

5 Q. Okay. Any training on the legal aspects of  
6 your job?

7 A. We've had some over the years.

8 Q. Okay. What type of training is that?

9 A. Well, like, I think the Fourth Amendment,  
10 things like that that were mandatory training.

11 Q. Okay. And what do you remember about your  
12 Fourth Amendment training?

13 A. I remember I had it. But, you know, the  
14 particulars we get briefed on as we need it.

15 Q. Okay. How long ago was that Fourth Amendment  
16 training?

17 A. I want to say it was in 2008.

18 Q. Okay. Was that prior to the incidents  
19 involved in this case?

20 A. Yes.

21 Q. Okay. And what kind of experience do you have  
22 in your current position? How long have you been with  
23 the Agency?

24 A. I have been with the Agency since 1997. I  
25 have been in the sexual abuse unit since 2000.

1 Ms. Renesha Allen get in touch with me. Ms. Allen  
2 eventually did call me. And I went by and spoke with  
3 her.

4 Q. Okay. And what did Renesha Allen have to say  
5 in that conversation?

6 A. Well, she said her children were not being  
7 abused. She said that her mother was behind this. That  
8 she said, If you look at the history you'll see my mother  
9 has called four times. She said her mother was trying to  
10 take her children.

11 Q. How did she know that her mother had called  
12 four times?

13 A. I have no idea.

14 Q. Did you see any signs of abuse or neglect on  
15 the kids at this point?

16 A. No, I did not.

17 Q. So what did you do next then?

18 A. After speaking, like I said, with the  
19 children, I called my supervisor who advised me we needed  
20 to do a drug test because of the prior history and the  
21 age of the children.

22 Q. Okay. And did you ask Renesha Allen to take a  
23 drug test?

24 A. I told her we would be asking her to take a  
25 drug test, yes.

1 Q. Okay. And what was her reaction to that?

2 A. Initially she said she would. But then I got  
3 a call and said that she wanted to wait until, like, the  
4 next week because she couldn't take off from work.

5 Q. Was that a problem for you?

6 A. It was. I told her -- that was on Wednesday.  
7 I told her I needed her to take the test by Friday.

8 Q. And why is that?

9 A. Because drugs stay in your system three to  
10 five days; some drugs, some longer. But I needed -- for  
11 the test to be accurate, I wanted to get it done sooner  
12 than later. I advised her if there was no drugs in her  
13 system most likely her case would be closed because the  
14 children did not make a disclosure.

15 Q. Okay. And did you interview the children?

16 A. I did. Well, not K.T.A.

17 Q. All right. Okay. But you did examine K.T.A.?

18 A. Yes. Some.

19 Q. All right. So if somebody wants to wait to  
20 take a -- a week to take a drug test, is that a red flag  
21 for you?

22 A. It can be.

23 Q. And why is that?

24 A. As I previously stated, we want to make sure  
25 that we get an accurate test.

1 A. Ivy Chambers.

2 Q. All right. So what was the result of that  
3 staffing?

4 A. There was no determination at that time. They  
5 wanted to see her and talk to her and see what her plans  
6 were. And I couldn't find her after I met with her. And  
7 I couldn't find the children.

8 Q. Okay. So mother ends up testing positive for  
9 crack cocaine, and there was a question as to whether the  
10 children stay with her or not?

11 A. No. We were trying -- what we try to do  
12 initially is, if we can, see if there is alternative  
13 placement or something of that nature. And we -- it was  
14 going back and forth with the supervisors. I don't know.

15 Q. Okay. So is it fair to say this was not a  
16 situation that you considered an emergency?

17 A. After she tested positive, I felt it was, yes.

18 Q. Okay. Okay. You felt it was. You, Yolanda  
19 Alpough, felt it was?

20 A. Yes.

21 Q. Was it your decision to make as to whether it  
22 was an emergency situation?

23 A. No.

24 Q. Okay. And whose decision was that?

25 A. The supervisors.



1 Q. Okay. Both of them?

2 A. Well, Stephanie can't staff anything, the  
3 nature of a removal, without Ivy who is the program  
4 director.

5 Q. Okay. So tell the jury how that chain of  
6 command works. Does Ms. Hammon make a recommendation to  
7 Ivy Chambers and Ivy Chambers has the final say? Is it a  
8 group consensus? How does that work?

9 A. It's not a group consensus. It is -- we all  
10 sit down. Generally I'll tell my supervisor what I have  
11 found in the course of the investigation. And she can  
12 speak with Ivy about it or Ivy may speak with her and  
13 someone else about it.

14 So I don't know what happens after that.  
15 I tell my supervisor. And then from there on I get  
16 directives from them.

17 Q. Okay. So do you have any -- so you do an  
18 investigation and make a report to Stephanie Hammon?

19 A. That's correct.

20 Q. Okay. From there on do you have any input  
21 into the decision as to whether to remove or not?

22 A. No.

23 Q. Okay. It simply comes back down to you as to  
24 what your supervisors have decided?

25 A. Yes.

1 mother.

2 Q. Okay. And did she tell you how the children  
3 had gotten there?

4 A. No.

5 Q. I mean, did she say, I sent my kids with my  
6 mother?

7 A. No. She just said, The children have been  
8 with my mother.

9 Q. Okay. So she didn't indicate that Mom had  
10 come and snatched them by force? Just a straight  
11 statement of fact that the kids were with Theresa  
12 Allen?

13 A. Yes.

14 Q. Okay. And when was this that she informed you  
15 of that?

16 A. That was probably mid to late November.  
17 Because I spoke with her before I went out. I was out  
18 sick.

19 Q. Uh-huh. Okay. All right. So what happened  
20 next?

21 A. Well, while I was out sick -- I was home sick  
22 on December 3rd when I received a call that they had  
23 received -- my supervisor had received a call from  
24 Ms. Theresa Allen and that I needed to go and meet with  
25 her and talk about what was going to happen with the



1 Q. Okay. All right. Did you smell any drugs in  
2 the air? Did Ms. Allen look like she was incapacitated  
3 in any way?

4 A. No.

5 Q. Okay. Anything that raised a red flag?

6 A. No.

7 Q. Okay. So is it fair to say that you did not  
8 see an emergency situation?

9 A. I can't answer that.

10 Q. So you don't know what an emergency situation  
11 looks like?

12 A. Yes. It wasn't about Ms. Allen, Theresa  
13 Allen, at all at that point. It was about Renesha Allen.

14 Q. Okay. So Renesha Allen was in the  
15 apartment?

16 A. No.

17 Q. Okay. Where was Renesha Allen?

18 A. I didn't -- I didn't -- I did find out during  
19 the phone call that she was in rehab.

20 Q. So Renesha Allen was not with the kids?

21 A. Correct.

22 Q. She was not with Theresa Allen?

23 A. Correct.

24 Q. She was not in -- she was not in Theresa  
25 Allen's apartment?

1 A. No.

2 Q. Okay. So, again, the question is: What was  
3 the emergency?

4 A. Well, I should say that it was about Theresa  
5 Allen's -- the allegations of the bipolar, the  
6 allegations of her not protecting her daughter when she  
7 told her she was sexually abused. And the mother at that  
8 point was, I guess, in rehab. But she had relapsed and  
9 had confirmed that she had relapsed.

10 So we had to make a decision regarding the  
11 children.

12 Q. Uh-huh. Okay. Now, you are aware that you  
13 took the -- well, let me ask you this: Did you have a  
14 court order to remove the kids?

15 A. No, we did not.

16 Q. Okay. What is your understanding of your  
17 ability to take children away from family without a court  
18 order?

19 A. The ability to take children away from a  
20 parent without a court order is that we can if we feel it  
21 is an emergency situation.

22 Q. Okay. And what is your definition of an  
23 emergency?

24 A. In this case we had a parent that was not able  
25 to parent her child. So that is an emergency situation.

please?

2 A. Imminent danger means there is an immediate  
3 threat to the physical health or safety of the child or  
4 that the sexual abuse is about to occur to the child.

5 Q. Okay. Was there sexual abuse about to occur  
6 to either of those kids?

7 A. Not to my knowledge.

8 Q. Okay. And what was the immediate threat to  
9 the physical health or safety of those children?

10 A. That they were in the care of their  
11 grandmother who had been -- we had been told was not  
12 protective of their mother when she alleged sexual abuse  
13 and who was bipolar and not on medication.

14 Q. Okay. We've already established that you had  
15 information for two weeks, correct?

16 A. Correct.

17 Q. My question to you is: What was the immediate  
18 threat to these children?

19 A. The immediate threat is that they were in the  
20 care of the grandmother.

21 Q. Okay. In that two-week period that you knew  
22 that the grandmother had been allegedly bipolar and not  
23 on medication, in that two-week period was there time to  
24 obtain a court order?

25 A. I'm sure that there was.

1 relapsed prior to December 4th, 2009?

2 A. Yes.

3 Q. Okay. And when did you know that the mother  
4 had relapsed?

5 A. Sometime in October.

6 Q. So a month and a half to two months prior to  
7 that?

8 A. Yes.

9 Q. Okay. How does the fact that the mother --  
10 your knowledge that the mother had relapsed constitute an  
11 emergency situation?

12 A. She was not available to parent her children  
13 and I now know where the children are.

14 Q. Are you testifying to the Court today under  
15 oath that two-month-old information constitutes an  
16 emergency situation?

17 A. If I just found the children, I need to do  
18 what is necessary at that time.

19 Q. Do you understand that an emergency situation  
20 is a snapshot of the situation as you find it that is so  
21 immediate that you do not have time to go seek a court  
22 order?

23 MR. SEAQUIST: I'm going to object to  
24 counsel testifying.

25 Q. (BY MR. BRANSON) You can answer.

1 MR. SEAQUIST: I'm going to object. Calls  
2 for a legal conclusion, but she can answer.

3 A. I don't know.

4 Q. (BY MR. BRANSON) You've testified that you  
5 know what an emergency situation is.

6 A. Yes.

7 Q. And you've testified that nothing was going on  
8 at that apartment, correct?

9 A. Correct.

10 Q. And yet you will not answer a simple yes or no  
11 question, was there an emergency?

12 A. I did not see an emergency happening while I  
13 was there.

14 Q. Okay. So the question is: Was there an  
15 emergency situation?

16 A. Based on information I have, yes, it was a  
17 removal.

18 MR. BRANSON: Objection; nonresponsive.

19 Q. (BY MR. BRANSON) I understand it was a  
20 removal. Was there an emergency situation December 4th,  
21 2009, 10:00 a.m. when you removed those kids?

22 A. I don't know.

23 Q. Okay. Can you explain to the jury why they  
24 should not think you were dodging this question?

25 A. No.

1 A. Yes.

2 Q. Was Theresa Allen at the emergency hearing?

3 A. Yes.

4 Q. Who was the emergency hearing in front of?

5 A. Actually, there wasn't an emergency hearing  
6 that actually took place.

7 Q. Well, then how could you have been at the  
8 emergency hearing?

9 A. There was a setting for an emergency hearing.  
10 When I arrived there, the paperwork was handed to me and  
11 I was done.

12 Q. There was no emergency hearing?

13 A. There was an emergency setting. In other  
14 words, yes, we show up for but there was not one held.

15 Q. So there was no emergency hearing held?

16 A. Held.

17 MR. SEAQUIST: I object to the extent that  
18 calls for a legal conclusion. I mean, the Judge has his  
19 particular procedures for that court. So I don't want to  
20 get caught up in whether or not it's a hearing or not.  
21 But that's how the Judge in that court does it.

22 Q. (BY MR. POOCK) But you were there observing,  
23 correct, at the hearing setting, correct?

24 A. Go ahead.

25 Q. You were there at the time that was set for